82-1803

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ALEXANDER L. STEVAS,
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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1982

SARANELLE AVEDISIAN

Petitioner

v.

NANCY RAMSEY, ET AL

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

Saranelle Avedisian
14613 Melinda Lane
Rockville, Maryland 20853
Pro Se 460-5573

QUESTIONS PRESENTED

I. Did the Court Below err and abuse its discretion when, counter to its role of supervisor and overseer of justice, it refused to grant certiorari after the petitioner had pointed out

(a) her legal right by mandatory state statutory law to judgment in her favor with the possible alternative of partial judgment as it pertains to respondent Ramsey; and

(b) the legal and procedural errors committed in the circuit court and compounded in the intermediate appeals court both of which had direct knowledge for years of violations of petitioner's rights from the 1978-79 case reporting physical and electronic surveillance by secret police action which violate the laws of the land?

II. Did the Court Below deny due process in violation of constitutional law by refusing to review the record when petitioner contends it was not in conformity with regular court proceedings as is shown by the irregular service, and the following 8 irregular actions taken by the circuit court which

(a) executed an Order in favor of the defendant on the day he submitted it with his plea in bar which foreclosed petitioner from (1) notice, (2) hearing, and (3) time to answer provided by Md Rule 319 and depriving her of a valuable property right;

(b) refused to allow amended process to cure jurisdictional "defect" and declined to issue its own motion to declare it cured by defendant's answer to the merits;

(c) cancelled the first hearing without notice;

(d) failed to enter judgment by default when moved by petitioner against respondent Ramsey who did not object to jurisdiction by defaulting throughout;

(e) granted respondent Straughan's motion to strike 7 of petitioner's filings, including interrogatories, thereby suppressing evidence that would have proved her allegations;

(f) denied all petitioner's motions by apparent pre-determined policy;

(g) denied hearing (per docket entry), set almost 9 months after filing, on motion for summary judgment filed when respondent Ramsey defaulted at traffic court trial;

(h) dismissed petitioner's case with prejudice to which petitioner voiced objection;

(i) the sheriff made only one attempt to deliver the executed Order

and that on the 12th day after issuance and on a night when petitioner regularly attended class, as though purposeful.

LIST OF PARTIES

Petitioner: Saranelle Avedisian

Respondents: Nancy Ramsey

John Straughan

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OPINIONS AND JUDGMENTS IN COURTS BELOW

The Court of Appeals of Maryland denied petitioners petition for writ of certiorari by Order of February 3, 1983, marked Appendix A. Petitioner's motion for reconsideration was denied March 4, 1983. The Maryland Court of Special Appeals denied petitioner's appeal by Order of October 20, 1982, attached as Appendix C. Motion for reconsideration denied by letter notice of Order November 4, 1982. The Montgomery County Circuit Court's Order as submitted by defendant on and executed February 25, 1981 attached as Appendix G, all incorporated herein by reference and made a part hereof.

JURISDICTION

The Court of Appeals, the state court of last resort, denied petitioner's petition for writ of certiorari by Order of February 3, 1983 and petition for reconsideration March 4, 1983. The jurisdiction of this court is invoked under 28 U.S.C.A. 1257(3).

CONSTITUTIONAL PROVISIONS, ORDNANCES STATUTES, RULES & REGULATIONS

Case was filed under the provisions of the United States Code Annotated, 42 U.S.C.A. §§ 1983 and 1985, and the Montgomery County Code § 35-21 - Police and based on Constitutional guarantees of due process and equal protection and rights of privacy.

Applicable Constitutional Amendments are IV, V, and XIV.

Maryland Declaration of Rights, Art. 24

STATEMENT OF THE CASE

This petition arises from the denial of a writ of certiorari by the Maryland Court of Appeals entered on February 3, 1983, which held that petitioner's plea did not make a showing that it was desirable or in the public interest.

Although hearings were held in the circuit court for Montgomery County, Maryland, the facts never came to issue due to Respondent Straughan's plea in bar--lack of jurisdiction over the party due to insufficiency of service of process. Identical service of process, omitting "restricted delivery" on Respondent Ramsey was never contested and thereby waived by her by defaulting throughout. After one year and three months of delay, the circuit court dismissed it with prejudice May 25, 1982.

The Court of Special Appeals of

Maryland held that no final judgment was entered for Respondent Ramsey; and that service had been quashed on Respondent Straughan, so no jurisdiction (Appendix C).

The various courts' orders are attached as Appendices A through H, pages A-1 through A-21. They include the ones cited by Respondent Straughan in petitioner's 1978-79 cases entered by the U. S. District Court in M-78-1227, Appendix D; the Montgomery County Circuit Court in 52353, Appendix E; and the U. S. District Court in B-79-1567, Appendix F. The causes of action are similar, the parties different.

On February 13, 1981, the petitioner filed a declaration for damages in Montgomery County Circuit Court for the Sixth Circuit against the respondents who are county employees, a meter maid and a policeman respectively. The petitioner alleged viola-

tion of her rights "as a citizen as guaranteed by state and U. S. constitutions as implemented by...42 U.S.C.A. Sections 1983 and 1985..." which are respectively Depriving persons of rights or privileges; and Obstructing justice; intimidating party, witness or juror. The local law violation was the Montgomery County Code, III 35-21-Police. Appendix I. Her statement of facts, introductory paragraph stated the police actions were "under color of law," "in bad faith," and denied.."rights to 'liberty' and 'equal protection' without 'due process.'"

Liability is due to citations issued to petitioner and to her son under circumstances that fit a pattern of police harassment which violates the codes cited. Such police actions come within the meaning of invidiously discriminatory action as it was secretly instituted.

For background, see #1560, and #1269 and its petition for rehearing in this court filed 4-12-79, 12-30-81, and 3-17-82, den.

On February 25, 1981, Respondent Straughan through his counsel, an assistant county attorney, filed a motion raising preliminary objection over jurisdiction and 1978-79 dismissals, among other things, and requested an Order of dismissal. Appendix G, as executed, same day. The petitioner averred the jurisdictional defect was cured by a plea to the merits in her second successive pleading. Although service of the order was not completed to petitioner as sought, a copy of it was taped to the clerk's counter to refuse service to her.

The only attempt to serve it was a night petitioner regularly attended class at UM's Adult Education Department, Monday 3-9-81. The former petitions filed in this court, above, reported surveillance

by electronic eavesdropping (See p. 4). The sheriff would not leave the order with petitioner's husband who forgot, uncharacteristically (attributed to hypnotic interference) until the end of the 15th day--too late--to tell her to call back with times it could be re-served. Petitioner did call, stayed home 2 days, but no one came. The order was returned to the clerk's office 3-30-81 with one non est rather than 2 as required by Maryland Rule 112.

In a Motion to Appoint Counsel, 2-23-81, petitioner pointed out recognition by constitutional Amendment VI the importance of preserving individual rights by having experienced legal help, and was willing to pay for it. It could not be done the judge said in the single personal meeting.

The first assigned hearing 5-5-81

was cancelled on 5-4 without notice for lack of jurisdiction which petitioner found out when she appeared for it. It was for the purpose of correcting the contested jurisdictional defect. That was the day, the 70th since execution, she received the 2-25 order. Since she had not been served with a signed copy, the petitioner continued to file papers and hearings continued to be set, but the delay made it impossible to answer, to appeal, or to withdraw and re-file.

At a 7-10-81 hearing, petitioner's motion for reconsideration alleging denial of due process, quoting 2 cases on taking property without notice or hearing, was denied. Paragraph 4 of the motion of 5-8:

> "Supporting plaintiff's motion are two other cases of appropriate subject matter which state 'A vested cause of action for damages is "property" which cannot be taken or destroyed without "due process of law," being a chose in action." (Citation omitted--appears in ar-

gument) and "due process or law 'inhibits the taking of one man's property and giving it to another ...without notice or an opportunity for a hearing' which is considered to be its essence." (Citation as above).

At a 7-24 hearing on respondent's motion to strike (7 of petitioner's intervening filings) and his motion to assess costs, the court granted the first, denied the second. Petitioner asserted she had paid the filing fee, asked what costs, to which she got no answer. For a full listing of the filings pro and con, a chart is inserted at the end of the statement of facts, p. 15.

Not satisfied with the results of her extemporaneous presentations, the petitioner prepared a written statement encompassing the sequence of facts bringing about the slander which she denied therein and read it under oath. She presented objects at the same time which she told the court were chip-based micro-processors

the modern wireless "bugs" it took her years to find. One item of proof of mind reading was shown. Most proof of that kind is contained in junk mail or publications. The opponents, who have the advantage of a superior on-site organization, have tested my averrments of innocence over and over since 6-82. The test sites appear to have included the City Hall housing Rockville Police, and as of last Saturday 4-23 the Montgomery County Courthouse, if she interprets correctly. Such illegal actions violate the 4th, 5th and 14th amendments. The petitioner's information is that necessary instruments are a hypnotizer, a videotape machine, and lately, the last 6 months, a liedetector.

Six days after the 10-1 hearing, her motion again denied, the respondent Ramsey defaulted and the petitioner thinks the news of her sworn statement of inno-

cence the material factor. The traffic court judge found petitioner not guilty due to non-appearance of citator. The petitioner's affirmative defense of not guilty thereby was not pursued. A non-opposing uniformed woman was noticed by petitioner and a motion for photographs of the respondent were requested for a 5-25 hearing on summary judgment based on the traffic court default. It was ignored. Petitioner sketched the woman from memory and tried to have it and a photograph of a man she thought at the time was the author of her 1978 dismissal identified.. The request to go under oath was evaded, the respondent's counsel objected to the judge with "Is that appropriate?" So, justice was again averted. The court had assigned another judge by the same name as in 1978 to hear. The traffic court judge had the same name as a neighbor; and in fact there was a neighbor with the

same name, German spelling, as the 1978 judge. She understand's the author of the 1978 order has a twin who perhaps was the man for whom she worked as a temporary at a firm in D.C. who represented himself as an employee.

The case was dismissed with prejudice as per the docket entry Appendix H.

To sum up, her meritorious case was successfully kept from being heard by the non-defaulting respondent's presentation of void judgments as res judicata when the parties were different. The execution of the order on the same day of filing, motions and facts ignored were arbitrary.

The case was appealed to the Court of Special Appeals of Maryland and the statement of facts alleged in paragraph 3

> "....The police broke the law by going outside the scope of their authority, acting secretly and without a formal charge 'upon oath or affirmation' as required, resulting in denial of 'due process.'

In her Argument, Paragraph 1(b), p. 12 of the brief for the C.S.A. Md, the petitioner advanced the holding of a Maryland court which stated that

> "the suppression of evidence denied due process which is constitutionally protected." (Citation omitted here--will appear in argument.)

Petitioner assigned numerous errors in "Questions Presented" p. 4 of brief: (1) order granted 1st day, (2) amendment not allowed, (3) service not completed, (4) merits addressed, (5) struck pleadings (6) hearings continued (7) denial of summary judgment, and (8) dismissal with prejudice.

The court found service quashed on one, final judgment not entered on the other, and case dismissed for lack of jurisdiction.

The respondent filed a motion to dismiss, unsigned, uncertified, date omitted in paragraph 3, made point case

dismissed 2-25-81, appeal not taken until 6-22-82. Petitioner untimely filed opposition to respondent's untimely motion to dismiss. The appeal was dismissed after citing Rule 605.a., (Appendix I) - Multiple Claims--Judgment upon...Gen'l.

On November 3, 1982, petitioner filed a motion for reconsideration listing two major topics I. Denial of Due Process and II. Abuse of Discretion, citing case law in support. She attacked delay in service of the order of dismissal making a "timely appeal...impossible;" the dismissal void if without jurisdiction; unconstitutionality of refusing service of process without leave of court in any action; suppression of evidence "gives rise to a presumption against the defendant;" and property rights denied by dismissal. The court abused discretion by disallowing amendment of service; failures to enter judgments as prayed for.

On November 4, 1982, an Order denied same.

On December 4, 1982, petitioner filed her petition for writ of certiorari in the Court of Appeals of Maryland. She again claimed denial of due process and abuse of discretion on the same facts and sought answer to whether or not the Court of Special Appeals erred by omitting to find the court below adopted irregular procedures, and to direct judgment on the basis of the facts, law, and evidence as presented by petitioner.

On February 3, 1983, it was denied as review not found desirable or in the public interest.

A motion for reconsideration was filed 2-18-83 contending the public has an abiding interest in regulating police action; suppressed answers to interrogatories would provide verification; that citing the 1978 dismissal as good faith res judicata was in bad faith as it was

dismissed in 1½ days without answers that would verify allegations. She cited one of its own 1966 holdings that condemns unjust police conduct. She cited the provision of the Montgomery County Code they acted against, and the same U. S. Constitutional amendment provisions for "due process," and "equal protection." It was denied March 4, 1983, by Order, without comment.

Chart

(Plaintiff's)

	Date
Declaration	2-13-81
Motion to Appt. Counsel	2-23-81
Interrogatories--Ramsey	3- 5-81
Motion to Amend	3-11-81
Motion for Witness Summons	4-23-81
Defendant's Order Received	5- 5-81
Motion for Reconsideration	5- 8-81
Motion for Judgment by Def.	5- 8-81
Interrogatories--Straughan	5-17-81
Answer to Motion to Strike (Exhibit re micro-"bugs")	6- 2-81
Objection to Costs	6- 2-81
Motion for Judgment by Def.	6-18-81
Motion for Witness Sum. Ord.	7- 1-81
Motion to Vacate Order	7- 1-81
Motion Ne Recipiatur	7- 1-81
Motion for Relief fm. Judg. or File Indep. Suit Set As.	7-15-81
Executed Order to Strike rec.	7-24-81
Motion for Leave to Amend	7-28-81
Statement Under Oath/Evid. (Hearing)	10-1-81
Motion to Vacate Denials or Motion for Final Judg.	10-5-81
Answ. to Def's Opp. and Motion for Summary Judg.	10-13-81
Motion to Produce Photos	5- 7-82

Chart
(Defendant's)

	Date
Motion Raising Preliminary Obj's. Order attached to quash; refuse process to ptf. w/o leave	2-25-81
Order above executed	2-25-81
Order above received by ptf.	5- 5-81
Motion to Strike & Motion to Assess Costs	5-20-81
Opposition to Judg. by Default	6-26-81
Opposition to Motion to Vacate	10-9-81
Line Requesting Hearing of Motion	10-22-81
4 Hearings	
On jurisdiction - Cancelled	5- 4-81
Plaintiff's Motion for Recon. **Denied**	7-10-81
Defendant's Motion to Strike **Granted**	7-24-81
" Motion to Assess Costs **Denied**	"
Plaintiff's Motion to Set Aside or For Leave to File Independent Suit to Set Aside and Statement & Evidence Under Oath **Denied**	10-1-81
Plaintiff's Motion for Summary Judgment **Denied** (and case dismissed with prejudice)	5-25-82
Traffic Court Trial	
Plaintiff not guilty due to dflt.	10-7-81
Appeal Taken to MD C.S.A.	6-20-82

ARGUMENT

The requirements of this Court's Part V. - Jurisdiction on Writ of Certiorari as it applies to this case are present in Rule 17 1.(c) in that the state court "has decided a federal question in a way in conflict with applicable decisions of this Court."

Although 17 1.(a), the last condition which is departure from usual course applies to federal courts, and this case concerns C. A. of Md, it applies by extension if not under strict construction.

Petitioner thinks her case merited review in the state C. A. and herein also by the standards set forth in the Atlantic area courts which include the following excerpts:

Certiorari applies only when action sought to be reviewed while it stands affects some right of the party applying

for it. Clay v. CSC, 1916, 98 A 312. The petitioner is a virtual prisoner without reason and without rights.

In an act without jurisdiction, certiorari properly lies to attack and review illegal action. Public Service Ry. Co. v. City of Camden, 1920, 112 A 421.

Certiorari will lie to review action where it is in excess of authority. Jackson v. City of Newark, 1895, 31 A 233. The Court of Appeals of Maryland does not have authority to ignore a case abetting injury equal to ruination of lives, not only petitioners but her childrens' and other family members. There is direct knowledge of truth of her averrments if her information is correct that she was hypnotized on the ramp leading to the back entrance of the building housing both appeals courts in Annapolis on 2-18 when she took her motion for reconsideration at the encouragement of the clerk.

In certiorari, petitioner must show not merely error of law committed, but injustice done. Barker v. Young, 1922, 119 A 330. Not only is injustice inherent in the facts reported, but she has pointed to injustice numerous times in all courts. In her C. A. Md Petition for writ of certiorari it appears in point 4 of the argument, page 8.

To review judgment of the Court of Common Pleas quashing writ of attachment for want of jurisdiction by reason of insufficiency of affidavit, writ of certiorari is proper remedy. Spencer v. Bloom, 1892, 24 A 185 Pa.

Certiorari is the proper mode by which superior courts examine into authority of an inferior tribunal to see if it has transcended the special powers to which it is limited by law. Swann v. Mayor, etc. Town of Cumberland, 1849, 8 Gill 150. If the court hearing the case did not have

jurisdiction, its judgments are void and should be reversed. Reviewing court may presume validity of judgment below but must reverse where there is no reasonable basis in legal principle for trial court's action. Magnetic Arts Corp. v. State Dept. of Industrial Relations, 164 Cal Reptr 400, 105 C. A.-3 417.

Where an order is unsupported by findings, and findings are required, proper procedure is to reverse rather than dismiss appeal. Covina-Azusa Fire Fighting Union - Local 2415, 1 AFF, AFL-CIO v. City of Azusa, 146 Cal Reptr 155, 81 C.A. 3 48.

The petitioner contends the Court of Appeals transcended jurisdictional authority by failing to exercise the power to correct irregular procedures as against course of common law in the lower courts which is its duty to do. It was a case demanding corrective legal and procedural

surgery. The Supreme Court in Marbury v. Madison, U.S.D. Col, 1803, 5 U.S. 137, 1 Cranch 137, 2 L.Ed 60, and in Ex Parte Watkins, U.S.D. Col, 1833, 32 U.S. 568, 7 Pet. 568, 8 L.Ed 786, said that it is an essential criterion of appellate jurisdiction that it revises and corrects the proceedings in a cause already instituted and does not create that cause. The intermediate appeals court initiated the Md. Rule 605.a provision by not finding final judgment and quashed service. The proper judgment directed or entered on its own motion was called for.

Appellate jurisdiction necessarily implies some judicial determination, some judgment about a decree or order of inferior tribunal from which appeal is taken. The Alicia, 74 U.S. 571, 7 Wall. 571, 19 L.Ed 84. The petitioner complained of the entire handling of the case in her C.S.A. brief, and here seeks review of

all rulings as deliberately prejudicially made against her with the purpose of protecting these police in their illegality for the same reason the police involved themselves--because they accepted without question spiteful promotion of falsehood.

As to the applicability of the C.A. Md denial of cert to the 17 1(c) provision, this Court has held on the federal question of due process over the last century or so the 4 cases below which would be in conflict thereto:

In 1884, the Supreme Court found that what due process of law meant to it was the process

> "following the general rules established in our system of jurisprudence for the security of private rights, is appropriate to the case, and just to the parties affected. Hagar v. Reclamation Dist. No. 108, 4 S.Ct. 663, 111 U.S. 708, 28 L.Ed 569.

In Buchalter v. People of State of N.Y.,

1943, 63 S.Ct. 1129, 319 U.S. 427, 87 L. Ed. 1492

> ...due process of law...requires that action by state through any of its agencies must be consistent with fundamental principles of liberty and justice which lie at the base of our civil and political institutions....

In Breithaupt v. Abram, 1957, 77 S.Ct 408 352 U.S. 432, 1 L.Ed.2d 448

> Due process is not measured by the yardstick of the personal reaction...of the most sensitive person, but by that whole community sense of decency and fairness that has been woven by common experience into the fabric of acceptable conduct.

One doesn't have to be the "most sensitive" person to be incensed to be the focus of illegal police action when she hasn't done anything.

> ...due process of law requires evaluation based on a disinterested inquiry pursued in spirit of science, on a balanced order of facts exactly and fairly stated, on the detached consideration of conflicting claims, on a judgment not ad hoc and episodic but duly mindful of reconciling the needs both of

> continuity and of change in a progressive society. Rochin v. People of Cal., 72 S.Ct 205, 342 U.S. 165, 96 L.Ed 183, 25 A.L.R. 2d 1396.

Petitioner avers that no progressive U. S. society will ever accept illegal police activity, especially where there is the additional elements of entrappment as in this case, perhaps hypnosis on the part of her son, implied insult by "meter maid" and their combined initials pronounced phonetically as a put-down of a citizen they don't know but judged guilty on the basis of hostile, defensive opponents in the first case.

Analogous to secret police action is this Supreme Court case from Kansas, Lowe v. State of Kansas, 1896, 16 S.Ct. 1036, 163 U.S. 81, 41 L.Ed 78 holding:

> ...when a prosecution has been instituted without probable cause and maliciously, the name of the prosecutor shall be stated in the finding, and he shall be adjudged to pay the costs, and committed to the county jail until they ...

> are paid, is not invalid as depriving prosecutor of his property without due process of law.

And the Supreme Court in a Michigan case

> No man's life, liberty, or property may be forfeited as punishment until there has been a charge fairly made and fairly tried...In re Oliver, 1948, 68 S.Ct 499, 333 U.S. 257, 92 L.Ed 622

In a North Carolina case, the Supreme Court held

> Legal concepts of conspiracy and complicity manifest general principle that society, having power to punish dangerous behavior cannot be powerless against those who work to bring about that behavior. Scales v. U.S., 1961, 81 S.Ct 1469, 367 U.S. 203, 6 L. Ed.2d. 782.

The Supreme Court has held the

> State has the power and is under duty to take adequate steps to preserve the peace and to protect the privacy, the lives, and the property of its residents. Thornhill v. State of Alabama, 1940, 60 S.Ct 736, 310 U.S. 88, 84 L.Ed 1093.

And these cases on the taking of property without due process as is done when a meritorious case is dismissed without hear-

ing are analogous and were quoted in the statement of the case: Williams v. Atlantic Coast Line R. Co., 69 S.E. 403, 153 N.C. 360; and Boeing Air Transport v. Farley, 75 F.2d 765, 767, 64 App. D.C. 163. In 3 different places and times, as a hint and a reminder 3 lookalikes came to where they knew I would be from the bugs for the Postmaster General of New Deal days, James Farley.

And appropriately enough, a Maryland case on the suppression of evidence quoted p. 11, statement: Brady v. Maryland, 226 Md. 422, 174 A.2d 167, 373 U.S. 83.

It is important that the Court take this petition under consideration as it is no exaggeration that lives depend on it. There is no other means or authoritative forum that will provide petitioner a chance to clear her name of the slander and save her children

from the stigma now attached. The same people who conceived the idea of following and hounding petitioner until they got their answer now don't like the answer and would rather find a non-traceable way to cause her permanent removal. As of this writing, it is up to about a dozen tries, mostly by hypnosis, beginning with a fall down the stairs, then sidewalk, 2 runs off the highway, 2 chokings on liquid--one deferred 24 hours, ladder tampering, high speed acceleration of our car 2 times 4-30 though the pedal did not appear to be stuck until Sunday. Not one family member has escaped, and petitioner was cut off from funds for a filing fee for the U.S.C.A. and for this filing until she thought of using a blank check before her husband is programmed to cut off that source as well as take the check book and credit cards.

Even without the life-threatening

this is a 100% meritorious case. It was begun illegally, secretly, has expanded opposition by guerrilla action reported to the Chief of Police for Montgomery County which letters were appended as an exhibit in M-78-1227 in March. It is important to petitioner, of course, but important to the American people as well that this illegal action be closed legally, and, therefore, satisfactorily, befittingly.

The petitioner has found that we in this country love our freedom, and we are willing to fight for it and to pay for it. There are limits, however, even to freedom. It does not mean organizing a gang to force obeisance to it, nor does it allow secretly obtaining and copying keys hiding them around a person's property to permit illicit entry upon its will. The petitioner seems to have found the cables strung some 40' across our attics from

the S.E. dormer roof to the north wall where all originally installed electrical wiring entered--from the pole on the curb. Petitioner removed the baseboard on that wall in the room below it and cut a hole after measuring from the fuse box on the first floor. Although the original 3 wires show, the cables, formed by 12 telephone-type wires twisted together, do not. The hints were suspenders, suspension bridge, cables, it's twisted, etc., and is strung in plain view in the larger attic on trusses (many loads of pre-fab type, repeatedly) and they look like a suspension bridge. It reminds me of Poe and his purloined letter. However, until I find a key hanging on it, the apparatus doesn't help. The search will continue.

There are indications the various court personnel know, and hints seem to be included in memorandums. For instance case names, Breckenridge, and Haines v.

Kerner (Hanes, brand of hose, only mine are L'Eggs, corner of closet, just got that one), and Thermtron, apparently wire strung behind the thermostat, many hints. At the Supreme Court building corridor, a large frieze once and a lookalike in uniform for my 1950's roommate; apparently a key down the wall behind the freezer; and an appearance on the street by Justice Powell(?) perhaps for Jane, a reference to a 1950's co-worker? knowledgeable about activities leading to 383 suit.

Conclusion

The petitioner has presented a fair and accurate case and asks that the writ of certiorari be granted in the interest of justice.

Saranelle Avedisian

Saranelle Avedisian - Pro Se
14613 Melinda Lane
Rockville, MD 20853
460-5573

Appendix A

Order, February 3, 1983

SARANELLE AVEDISIAN	IN THE COURT OF APPEALS OF MARYLAND
NANCY RAMSEY, ET AL	Pet. Docket No. 480 September Term, 1982 (No. 1016, September Term, 1982 Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

(SEAL) /s/ Robert C. Murphy
Chief Judge

Date: February 3rd, 1983.

Appendix B

Order, March 4, 1983

SARANELLE AVEDISIAN	:	IN THE
	:	COURT OF APPEALS
	:	OF MARYLAND
	:	Petition Docket
v.	:	No. 480
	:	September Term, 1982
NANCY RAMSEY et al.	:	(No. 1016 - September
	:	Term, 1982 - Court
	:	of Special Appeals)

ORDER

Upon consideration of the motion for reconsideration filed in the above entitled case, it is this 4th day of March, 1983,

ORDERED, by the Court of Appeals of Maryland, that the Motion be, and it is hereby, denied.

/s/ Robert C. Murphy
Chief Judge

(SEAL)

Appendix C

Order, October 20, 1982

SARANELLE AVEDISIAN : IN THE

Appellant : COURT OF SPECIAL

v. : APPEALS OF MARYLAND

NANCY RAMSEY, ET AL.: No. 1016

Appellees : September Term, 1982

ORDER

After consideration of appellee's Motion to Dismiss and the Answer opposing, it is this 20th day of October, 1982, by the Court of Special Appeals, ORDERED, that the Motion be, and it is hereby, denied as untimely filed; and,

It further appearing from the record in this cause that on February 25, 1981, by the Order of the Circuit Court for Montgomery County (MITCHELL, J.), that service of process was quashed as to defendant, John Straughan, and that the proceedings were dismissed for lack of

jurisdiction and that there was no entry of final judgment as to the defendant, Nancy Ramsey; and,

It further appearing that there was no expressed determination by the trial court that there was no just reason for delay nor expressed direction for the entry of judgment as authorized by the provisions of Maryland Rule 605 a.; and,

It is further ORDERED, that the captioned appeal be, and it is hereby, dismissed pursuant to Maryland Rule 1035 b.1.

/s/ Richard P. Gilbert
CHIEF JUDGE

/s/ James C. Morton, Jr.
JUDGE

(SEAL) /s/ J. J. Gann, Jr.
JUDGE

Appendix D

Memorandum and Order, July 11, 1978

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SARANELLE AVEDISIAN)

Plaintiff)

v.) CIVIL ACTION NO. M-78-1227

MR. AND MRS. GEORGE C. HUBBARD, ET AL)

Defendants)

MEMORANDUM AND ORDER

Plaintiff, acting pro se, has paid the appropriate filing fees and has filed this suit against approximately 150 defendants. No specific relief has been requested. No jurisdictional allegations have been cited in the complaint, and it does not appear that this court has jurisdiction over the complaint.

The complaint consists of a mishmash of paranoic assertions and is clearly legally frivolous.

Even though plaintiff has paid her

filing costs, this court has an inherent and broad power "over (its) own process, to prevent abuses, oppression, and injustice." Gumbel v. Pitkin, 124 U. S. 131 at 144 (1888); 1 Moore, Federal Practice, P. 0.60(6) at 612-614 (2d ed. 1964); O'Connell v. Mason, 132 Fed. 245, 247 (1st Cir. 1904). See also Brinkley v. Louisville and N.R. Co., 95 Fed. 345 at 348-349 (W. D. Tenn. 1899), aff'd 100 Fed. 1006 96th Cir. 1900). Such power may be invoked by the court on its own motion and exists independent of statute, and is not impaired or limited by Federal Rule 12(b), F.R.Civ. P. 1 Moore, Federal Practice, supra. In addition, the court has the power, on its own motion, to dismiss a suit for lack of jurisdiction.

The clerk will be ordered to withhold the service of process in the above case and to dismiss the case for lack of

jurisdiction as well as to prevent abuse of process.

It is so ORDERED this 11th day of July 1978.

/s/ James R. Miller, Jr.
James R. Miller, Jr.
United States District Judge

I hereby attest and certify on 7-12-78 that the foregoing document is a full, true and correct copy of the original on file in my office and in my legal custody.

Paul R. Schlitz
Clerk, U. S. District Court
District of Maryland

By /s/ C. A. Halecki Deputy

APPENDIX E

Memorandum and Order, August 29, 1979

IN THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND

SARANELLE AVEDISIAN, :

Plaintiff :

v. : Law Number 52353

MR. AND MRS. GEORGE C. HUBBARD, ET AL., :

Defendants :

MEMORANDUM AND ORDER

Plaintiff, proceeding pro se, has filed a pleading alleging a violation of rights insured to her by 42 U.S.C., §1983. In July 1978, plaintiff filed a Complaint alleging the identical cause of action in the United States District Court for the District of Maryland. At that time, the Federal Court dismissed the case for lack of jurisdiction. This Court now dismisses the present case for lack of a proper basis of jurisdiction.

Jurisdiction is not available under 42 U.S.C., §1983. The purpose of this law is to protect the rights of citizens from State action. Mitchum v. Foster, 407 U.S. 225 (1972). The Complaint states only vague allegations of police involvement, which are insufficient to constitute State action.

Plaintiff also invokes §75 of the Maryland Code as a basis for jurisdiction. No such provision of the Code exists.

The Memorandum and Order dismissing the case brought in Federal Court noted that the Complaint is "clearly legally frivolous." The statement is equally applicable to the present complaint. The Court feels that dismissal at this juncture is required to spare the numerous defendants the time and expense involved in defending a non-meritorious suit.

It is so Ordered this 27th day of

August, 1979.

/s/ John J. Mitchell
JOHN J. MITCHELL
JUDGE of the Circuit Court for
Montgomery County, Maryland

APPENDIX F

Memorandum and Order, Judgment December 20, 1979

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

SARANELLE AVEDISIAN

v. CIVIL NO. B-79-1567

MR. & MRS. GEORGE C. HUBBARD, et al

MEMORANDUM AND ORDER

Plaintiff brought this action in the Circuit Court for Montgomery County under 42 U.S.C. §§ 1983 and 1985, provisions of the United States Constitution and state law, alleging that over eighty defendants have conspired against her. On August 24, 1979, Defendants, William F. Balger, Postmaster General of the United States Postal Service; Russell T. Baker, Jr., the United States Attorney for the District of Maryland; and Griffin Bell, former United States Attorney General, filed a petition for removal from the state

court because, on August 27, 1979, the state judge dismissed the suit as legally frivolous.[1]

Removal is effected when the petition is filed with the federal court, adverse parties are notified and a copy of the petition is filed with the clerk of the state court. 28 U.S.C. § 1446(e). The record demonstrates that the federal defendants completed these procedures on August 24, 1979; however, the dismissal order of the state judge was not issued until August 27, 1979, three days later. The order of the state judge is, therefore, void. At the time it was issued, the state court no longer had jurisdiction over the suit, for removal had been

1 The second basis for dismissal, cited by the state judge, was lack of jurisdiction; however, the federal defendants do not refer to this ground in their petition for remand.

previously effected. See Madisonville Traction Co. v. St. Bernard Min. Co., 196 U.S. 239, 244 (1905).

A federal district court must remand a case when it appears that it was removed "improvidently and without jurisdiction." 28 U.S.C. § 1447(c). The case may not be remanded on grounds other than those found in this statute. Thermtron Products, Inc. v. Hermansdorfer, 423 U.S. 336, 345 (1976) Dismissal of the suit by the state court as frivolous, defendants' asserted ground for remand, is not a basis permitted by the controlling statute and hence, does not justify remand. Defendants who have been permitted to remove an action should not then be heard to petition for remand once they are assured the state court will rule in their favor. The removal statute was instituted to protect federal officers from local prejudice, not to al-allow defendants to control the results of

the action. See Wright, Miller & Cooper, Federal Practice and Procedure § 3727, at 681 (1976).

Lack of jurisdiction, the statutory prerequisite to remand, is not present in this case. Under 28 U.S.C. s 1442(a)(1), a defendant may remove an action if he is an officer of the United States sued for an act performed "under color of such office." Performance of the alleged act by a federal officer in the course of executing his duties has been held a sufficient basis for removal under this statute. Willingham v. Morgan, 395 U.S. 402, 408 (1969). In her complaint, plaintiff alleged that employees of the defendant Postmaster General,[2] acting in their

2 Removal is based on the alleged acts of employees of the Postmaster General and not Russell T. Baker and Griffin Bell, the other federal defendants who also sought removal. Although plaintiff did name the latter as defendants, her complaint made no reference to any alleged wrongdoings on their part. This court cannot, therefore

official capacity as "Post Office Department personnel," have carried on an "ongoing conspiracy . . . in an attempt to force /plaintiff/ to bend to /defendants'/ will."[3] Since it appears that the acts

2 Cont'd. determine whether it gas removal jurisdiction over these two defendants. Since all defendants need not join in the petition for removal based on 28 U.S.C. § 1442(a)(1) or be eligible to secure removal on their own, it is not necessary for these two federal defendants to demonstrate that they may properly remove this case nor for the other defendants named in the suit to be joined in the removal petition. A showing by the Postmaster General that he may properly invoke the federal officer removal statute is sufficient to bring the entire case before this court. See 14 Wright, Miller and Cooper, Federal Practice and Procedure s 3727, at 692 (1976).

3 A petition for removal under U.S.C. § 1442(a)(1) has been held to require specific averments that the acts charged fall under the statute. Maryland v. Soper, 270 U.S. 9, 35 (1926). Federal defendants, here, could only generally assert that the acts alleged were performed under "color of office" because of ambiguity of the complaint itself. As the court noted in Willingham v. Morgan, 395 U.S. 402, 408 (1969), the requirement for specific averments must "be tailored to fit the facts of each case."

complained of occurred during the performance of postal duties, the court finds that it has removal jurisdiction under 28 U.S.C. § 1442(a)(1). Defendants have failed to show that this court is without jurisdiction, and the petition for remand is, therefore, denied.

The complaint focuses on an alleged conspiracy of neighbors, school personnel, Post Office Department employees, Montgomery County Police, "and literally hundreds of other people in contiguous neighborhoods, as well as every part of town." Plaintiff claims that the defendants have engaged in a conspiracy for the purpose of depriving her of equal protection under the law. The complaint is a convoluted and disjointed compendium of perceived wrongs on the part of virtually anyone with whom the plaintiff appears to have had contact in recent years. It is an amorphous allegation giving not the

slightest indication that there is support for the action brought.

Ever mindful that pro se complaints are held "to less stringent standards than formal pleadings drafted by lawyers," Haines v. Kerner, 404 U.S. 519, 520 (1972) this court nevertheless concludes that plaintiff's primary claim of conspiracy as well as other incidental allegations are legally frivolous.[4] Invoking its inherent power over "process, to prevent abuse, oppression, and injustice," Gumbel v. Pitkin, 124 U.S. 131, 144 (1888), the court dismisses this action. See 1 Moore's Federal Practice ¶ 0.60[67] at 634-36 (2d ed. 1948). This "power to dismiss exists quite independently of express statutory authority, and may be exercised in a prop-

4 Judge Miller of this court reached a similar conclusion in a similar action by this plaintiff against more than 150 alleged conspirators. Avedisian v. Hubbard, Civil No. M-78-1227, (D.Md., July 11,1978) summary affirmance, No. 78-1643(4th Cir.,

er case by the court upon its own motion." O'Connell v. Mason, 132 Fed. 245, 247 (1st Cir. 1904).

Accordingly, it is this 18th day of December, 1979, by the United States District Court for the District of Maryland, ORDERED:

1) That defendants' petition for remand be, and the same hereby is, DENIED: and

2) That all claims brought against the defendants be, and the same hereby are, DISMISSED.

The Clerk shall mail a copy of this Memorandum and Order to the plaintiff and to each of the defendants.

/s/ C.Stanley Blair
C. Stanley Blair
United States District Judge

4 Cont. Nov. 15, 1978), cert. denied, No. 78-1560 (U.S., June 4, 1979).

APPENDIX G

Executed Order of February 25, 1981

IN THE MONTGOMERY COUNTY CIRCUIT COURT
FOR THE SIXTH CIRCUIT

SARANELIE AVEDISIAN, :
Plaintiff :
v. : Civil Action #57040
NANCY RAMSEY and :
JOHN STRAUGHAN :

ORDER

Upon consideration of the Motion Raising Preliminary Objections, it is this 25th day of February, 1981, by the Circuit Court for Montgomery County, Maryland;

ORDERED, that service of process on John Straughan be and the same is hereby quashed; and it is further,

ORDERED, that the above-captioned case be and the same is hereby dismissed for lack of jurisdiction; and it is further,

ORDERED, that the Clerk of the

Circuit Court for Montgomery County, Maryland, be and the same is hereby ordered to withhold service of process in the above case and any other action filed by Saranelle Avedisian without leave of court for good cause shown; and it is further,

ORDERED, that a copy of the foregoing Order be personally served on Saranelle Avedisian.

/s/ John J. Mitchell
JUDGE, Circuit Court for
Montgomery County, Maryland

Non-est 3/30/81
Not in when serve attempted
/s/ James A. Young
Sheriff Montgomery County, Maryland

Appendix H

T. Docket Entries #60 - Entered 5-25-82

IN THE MONTGOMERY COUNTY CIRCUIT COURT
FOR THE SIXTH CIRCUIT

Court (Miller, J.) finds case has been dismissed pursuant to Order of Judge Mitchell dated February 25, 1981, denies Hearing to Plaintiff, requests defendant's attorney to submit order dismissing case with prejudice subject to Judge Mitchell's prior order.

Tape 5/25/82-12-038.4-083.6

APPENDIX I

UNITED STATES CONSTITUTIONAL PROVISIONS

US Const, Am IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

US Const, Am V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same off-

ense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

US Const, Am XIV

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

UNITED STATES STATUTORY PROVISIONS

USCA 42 § 1983

Any person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person under the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

USCA 42 § 1985 (2, 3)

Obstructing justice; intimidating party, witness, or juror

(2) If two or more persons in any State or Territory conspire to deter, by force intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hin-

dering, obstructing, or defeating in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

USCA 42 § 1985 -- Depriving persons of rights or privileges

(3) If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all

persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for

the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

OATH OF MARYLAND STATE POLICE

I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of Maryland. That I will serve honestly and faithfully to uphold and defend the Constitution of the United States and the Constitution of Maryland; that I will enforce the laws of the state of Maryland; and that I will obey the orders of the Governor and of the officer appointed over me according to the rules and regulations of the Maryland state police.

(f) Responsibility of members generally. Every member of the police shall be held responsible for the proper performance of his duties and for strict adherence on his part to the rules and regulations adopted from time to time for the government of the police, and it shall not be deemed a valid excuse or justification for anything he may do contrary to such rules and regulations, or for anything he may omit doing, that he followed the suggestion or advice of any other person, whether connected with the police or not; except, that an officer of superior rank may take upon himself the responsibility of issuing direct and positive orders.

Maryland Rules of Procedure

Rule 605. Multiple Claims--Judgment Upon Gen'l. a. When Entered-As to Part or All

Where more than one claim for relief is presented in an action, whether as an original claim, counterclaim, cross-claim, or third-party claim, the court may direct the entry of a final judgment upon one or more but less than all of the claims only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates less than all the claims shall not terminate the action as to any of the claims, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims.

Maryland Declaration of Rights

Art. 24. Due Process.

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

CERTIFICATE OF SERVICE

I, SARANELLE AVEDISIAN, hereby certify that 6 copies of this petition for a writ of certiorari were mailed by regular mail to the attorney of record in this case, Mr. Bruce P. Sherman, an Assistant County Attorney for Montgomery County Maryland, at 2350 Research Blvd., Rockville, Maryland 20850, on this 4th day of May, 1983, by certified mail, return receipt requested.

Saranelle Avedisian

Saranelle Avedisian, Petitioner
14613 Melinda Lane
Rockville, Maryland 20853
460-5573

Pro Se